

XXXII. Where the interests in such estate are equitable fees simple, the Court of Chancery alone shall have the same powers, upon petition or bill filed in that Court, to act thereupon, as are hereby given to the Courts of Law and Equity in other cases, and the same notices shall be given, served, published and verified, guardians of minors appointed, and the same rules apply as to parties, and the like proceedings be had, as hereinbefore directed.

Powers of the Court of Chancery when the interests are equitable fees simple.

XXXIII. In the month of January of every year after the passing of this Act, the Clerk of the Court having the custody of any bonds, mortgages or investments arising from sales of such estates, for the benefit of any unknown, absent, infant or lunatic parties, where no claim has been made on their behalf for any interest or principal of such investments during the preceding year, shall cause to be published in the *Canada Gazette*, and in one newspaper in the County or Union of Counties in which such lands are situate, weekly, for the period of four weeks, a statement of the securities or investments remaining unclaimed, showing the name of the intestate party, the amount unclaimed, and the property from which the claim has arisen, and such statement shall be verified by the clerk, and a copy thereof filed among the records of the Court.

Statement to be published yearly by Clerks of Courts of monies in their hands and unclaimed.

XXXIV. All proceedings in petition shall be intitled "In the matter of the estate of A. B. who died intestate," and shall require no other title, except the name of the Court in which such proceedings are had; and the judges of the Superior Courts of Common Law and the Court of Chancery shall make such tariff of fees and rules and orders, for the proceedings on petitions at Law and in Equity, respectively, as they shall deem expedient and advisable.

Intitling proceedings under this Act.

Courts to make Tariff and Rules.

C A P . L X V I .

An Act to amend the Laws relating to the solemnization of Matrimony in Upper Canada.

[Assented to 10th June, 1857.]

WHEREAS under the laws now in force in Upper Canada, privileges are claimed with regard to the solemnization of matrimony, by the Clergymen and Ministers of certain denominations, which are partial in their character and offensive to certain other religious denominations and their Clergymen and Ministers: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Preamble.

1. From and after the passing of this Act, the Ministers and Clergymen of every religious denomination in Upper Canada, duly ordained or appointed according to the rites and ceremonies

Ministers of any denomination may

of

solemnize
marriage.

of the Churches or denominations to which they shall respectively belong, and resident in Upper Canada, shall have the right to solemnize the ceremony of Matrimony, according to the rites, ceremonies and usages of such Churches and Denominations respectively, by virtue of such ordination or appointment.

Ministers
marrying
must give cer-
tificate if re-
quired.

II. Every Clergyman or Minister who shall celebrate Matrimony in Upper Canada, from and after the time of the passing of this Act, shall, if required, at the time of such marriage by either of the parties thereto, give a certificate under his hand of such marriage, specifying the names of the parties married, the time and the names of two or more persons who witnessed such marriage, and whether such marriage was solemnized pursuant to License or publication of banns; and for every such certificate, the Clergyman or Minister giving the same shall be entitled to ask, demand or receive from the party so requiring the same, the sum of one shilling and three pence.

Fee for certi-
ficate.

Ministers to
enter every
marriage in a
Book, with
particulars as
per Schedule;

III. From and after the first day of January, one thousand eight hundred and fifty-eight, every Clergyman or Minister shall, immediately after the solemnization by him of any marriage, enter in a book to be by him kept for that purpose, which book shall be and continue to be the property of the church or denomination to which he shall belong at the time of such marriage, a true record of such marriage, embracing all the particulars set forth in the body of the schedule hereunto annexed; and on or before the first day of February, in each and every year, after the year one thousand eight hundred and fifty-eight, it shall be the duty of every such Clergyman, and he is hereby required to return a certified list according to the form, and specifying the particulars in the said schedule set forth, of all marriages by him solemnized during the year ending on the thirty-first day of December, then next preceding, to the Registrar of the County in which such marriage shall have taken place, and at the time of making such return, to pay or transmit to such Registrar the sum of five shillings for every such list; and on receipt by such Registrar of every such list, it shall be his duty to file the same among the papers of his office, and to record the same in a book to be kept by him for that purpose; and every such register, or a certified copy thereof, shall be considered in the case of the death or absence of the witnesses to any such marriage, as a sufficient evidence thereof; and the said Registrar is hereby required to give a certified copy of any such marriage record to any person demanding the same, on the payment of the sum of two shillings and six pence; and every such Clergyman or Minister shall, before solemnizing such marriage, be entitled to ask, demand and receive from either of the parties to such marriage, the sum of ten shillings, to enable him to pay the said sum so to be paid or transmitted by him to such Registrar, and to remunerate him the said Clergyman or Minister, for the trouble and expense attendant on the preparing and transmission of such certified list to such Registrar; and

And make a
return of all
marriages
yearly to the
Registrar of
the County.

Registrar's
duties and ef-
fect of copies
from Regis-
trar.

Fees to Regis-
trars for co-
pies.

Fees to Minis-
ter for marry-
ing.

every

every such Clergyman or Minister who shall refuse or neglect to return such certified list as aforesaid, shall forfeit and pay for every day he shall so neglect or refuse, beyond the time respectively herein fixed for making such return, the sum of one pound, which shall be recoverable before any Magistrate of the County in which such Clergyman or Minister shall reside, with costs, and shall be applied, as fines now inflicted under the Summary Convictions Acts of Upper Canada: Provided however, that nothing in this Act contained shall be construed or held to prevent the payment to the officiating Clergyman or Minister of such remuneration as the parties may see fit to make.

Fines for neglecting to certify list of marriages.

Proviso: parties married may give what remuneration they think fit.

IV. In the event of the death or removal of any Minister or Clergyman before making the annual return hereinbefore provided for, it shall be the duty of his successor or other person having the legal custody of the book referred to in the next preceding section of this Act, to transmit to the Registrar of the County in which any such marriage shall have taken place, a certified copy of all marriages therein recorded, in the same manner as is provided for, and subject to the same penalties for neglect or non-performance of such duty, as is mentioned in the next preceding section, and such Registrar shall record the same as if such return had been made by the Minister or Clergyman who *de facto* celebrated such marriage.

In case of death or removal of Minister, his successor to make the return to the Registrar.

V. Any person not being a Clergyman or Minister of a religious denomination existing in Upper Canada, who shall solemnize or pretend to solemnize matrimony under the provisions of this Act, and any person who shall falsely personate any Clergyman or Minister for the purpose of officiating at any such ceremony, shall be guilty of misdemeanor, and shall be liable for every such offence to be imprisoned in the Provincial Penitentiary, for a period not exceeding two years, or to suffer such other punishment, either by fine or imprisonment, or both, as any Court of Record having competent jurisdiction in Upper Canada shall deem meet and just; and it shall rest upon any person accused of such offence to prove the fact of his being a duly ordained or appointed Minister or Clergyman of the religious denomination to which he shall profess to belong, and that such denomination had at the time of the solemnization of such marriage a known existence in Upper Canada.

Punishment of persons not being Ministers pretending to solemnize marriage.

Proof or ordination or appointment to lie on defendant.

VI. Any person knowingly procuring any other person not being a Minister or Clergyman of some religious denomination existing in Upper Canada, to perform the ceremony of matrimony, or who shall knowingly aid or abet any such pretended Clergyman or Minister in performing such ceremony, shall be guilty of misdemeanor, and shall be liable to the punishment provided for in the next preceding section of this Act.

Punishment of persons procuring persons not Ministers to pretend to marry, &c.

Quakers' marriages declared valid.

VII. Every marriage which shall be duly solemnized according to the rites, usages and customs of the Religious Society of Friends, commonly called Quakers, shall be and is hereby declared valid, and the duty imposed by the third section of this Act, upon every Minister and Clergyman, with regard to marriages solemnized by them, shall, with regard to such marriages, be performed by the Clerk or Secretary of the Society or Meeting where such marriage was solemnized, and in default of the performance of any such duty by any such Clerk or Secretary, he shall be liable to the penalty prescribed by the said third section, for default, in the case therein named.

Who shall send the return to the Registrar.

Clerks of the Peace to mail copies of this Act to Ministers entitled to marry under it.

VIII. It shall be the duty of the Clerk of the Peace of each County or Union of Counties in Upper Canada, to procure without delay from the Queen's Printer, a sufficient number of copies of this Act to enable him to mail one to the Address of each Clergyman or Minister entitled to solemnize Matrimony under the provisions of this Act, whom he shall know, or shall ascertain at any time within six months from and after the passing of this Act, to be resident in such County or Union of Counties, and to mail the same accordingly; and also from time to time to furnish all such Clergymen or Ministers on demand with the books and with printed blank forms for the lists to be used and returned by them in pursuance of this Act, and such books shall have columns and headings printed on each page thereof, according to the form of the Schedule hereunto annexed, and shall, as shall also the blank forms aforesaid, be of such size and form as to admit of the necessary entries being conveniently made therein; and the cost of such books and forms, as well as of procuring and distributing copies of this Act as aforesaid, shall be borne by the Counties or Unions of Counties respectively.

And to furnish books and printed forms.

Cost thereof how paid.

Copies of this Act to be sent to Clerks of the Peace.

IX. Copies of this Act shall be mailed from the office of the Provincial Secretary to the addresses of the Clerks of the Peace of the several Counties and Unions of Counties in Upper Canada respectively, as soon as conveniently may be after the passing of the same.

Inconsistent enactments repealed.

X. All Acts and parts of Acts inconsistent with this Act, shall be and the same are hereby repealed.

Act limited to U. C. only.

XI. This Act shall apply to Upper Canada only.

SCHEDULE.

, for the year ending

, a Minister of

RETURN of Marriages solemnized by

31st day of December, A. D.

BRIDEGROOM.				BRIDE.			WITNESS.		DATE OF MARRIAGE.		
His Name.	Age if known.	Residence.	Place of Birth, if known.	Names of Parents, if known.	Her Name.	Age if known.	Residence.	Place of Birth, if known.		Names of Parents, if known.	Name.

I do hereby certify that the foregoing is a true and correct statement of all Marriages solemnized before (as the case may be) for the year ending on the 31st day of December next preceding the date hereof.

(Signed,) A. B.

(Minister or Clerk, as the case may be.)